

Message Text

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ACTION EUR-12

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FM AMEMBASSY BRUSSELS
TO SECSTATE WASHDC 4492
INFO ALL EC CAPITALS
AMCONSUL MONTREAL

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USEEC

DEPARTMENT PASS CAB; MONTREAL PASS ICAO; PARIS ALSO FOR
OECD

E.O. 11652: N/A
TAGS: EAIR, EGEN, EEC
SUBJECT: EC COMMISSION ATTEMPTS TO CONSTRUCT A COMMON
- CIVIL AVIATION POLICY THAT WILL FLY IN 1978

REF: 77 BRUSSELS 15482

BEGIN SUMMARY: AT ITS OCTOBER 27 MEETING, THE EC TRANS-
PORT COUNCIL (REFTEL) ENCOURAGED EC INITIATIVES IN THE
CIVIL AVIATION FIELD. IN PARTICULAR, THE MINISTERS RECOM-
MENDED (1) A COMMON APPROACH TO PROBLEMS IN CIVIL AVIATION;
(2) EC COOPERATION WITH INTERNATIONAL AIR TRANSPORT ORGANI-
ZATIONS; AND (3) OTHER PRIORITY AREAS OF ACTION IN THIS
FIELD.

THE EC COMMISSION HAS STARTED REVIEWING TWELVE AREAS OF
POTENTIAL COMMON PROGRAMS OF ACTION SO THAT FORMAL PRO-
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POSALS MAY BE PRESENTED TO THE COUNCIL WHICH MAY LEAD TO
EC ACTION IN 1978. THE COMMISSION HAS DRAWN UP WORKING
DOCUMENTS ON THE COORDINATION OF EC-9 POSITIONS IN THE
EUROPEAN CIVIL AVIATION CONFERENCE (ECAC) AND THE INTER-
NATIONAL CIVIL AVIATION ORGANIZATION (ICAO). THE FIRST
FORMAL COMMISSION PROPOSAL TO THE COUNCIL WILL PROBABLY
CONCERN THE APPLICATION OF THE COMPETITION RULES OF THE EC

TREATY TO CIVIL AVIATION. END SUMMARY.

1. COMMISSION WORK IS IN PROGRESS IN TWELVE AREAS:

A. RIGHT OF ESTABLISHMENT.

DECISIONS OF THE EUROPEAN COURT OF JUSTICE HAVE ESTABLISHED THAT THE GENERAL RULES OF THE TREATY CONCERNING THE RIGHT OF ESTABLISHMENT ARE AUTOMATICALLY APPLICABLE TO AIR TRANSPORT. THIS POSES A PARTICULAR PROBLEM FOR THE MEMBER STATES AND THEIR REGULARLY SCHEDULED NATIONAL AIRLINES. THE COMMISSION AND THE MEMBER STATES ARE WORKING ON A SOLUTION WHICH WOULD EXEMPT REGULARLY SCHEDULED AIRLINES FROM THE FREEDOM OF ESTABLISHMENT RULE (ACCORDING TO ARTICLE 55, PARA 2 OF THE TREATY). THIS PRINCIPLE WOULD STILL BE USED TO ENCOURAGE OTHER TYPES OF COMMUNITY-WIDE AIR TRANSPORT SERVICES, E.G., CHARTERS, CARGO, EXECUTIVE SHUTTLES.

B. FREEDOM TO PROVIDE SERVICE.

WHILE ARTICLE 61 OF THE TREATY EXPLICITLY PROVIDES FOR THE FREE MOVEMENT OF TRANSPORT SERVICES, THE COUNCIL MUST STIPULATE UNDER ARTICLE 84 THE SPECIFIC REQUIREMENTS IN THIS AREA. TO DATE, NO REPORT HAS BEEN PREPARED ON THIS.

C. STATE AIDS TO NATIONAL AIRLINES.

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UNDER THE TREATY, THE COMMISSION MUST AUTHORIZE ANY AIDS. IN ADDITION, THESE AIDS MUST MEET THE NEEDS OF COORDINATION OF TRANSPORT OR EXPENSES INCURRED FOR PROVIDING PUBLIC SERVICE TRANSPORT. THE COMMISSION HAS COMPETENCY TO DECIDE THESE MATTERS ON A CASE-BY-CASE APPROACH. HOWEVER, THE COUNCIL MAY WANT TO AUTHORIZE CERTAIN TYPES OF AIDS TO THIS SECTOR BY THE MEMBER STATES. THE REPORT IS FAVORING THE COMMISSION'S CASE-BY-CASE APPROACH TO STATE AIDS.

D. COMPETITION RULES - "RESTRICTION OF TRADE" AND "ABUSE OF DOMINANT POSITION"

A PRELIMINARY STUDY OF THE APPLICATION OF ARTICLE 85 (RESTRICTION OF TRADE) AND ARTICLE 86 (ABUSE OF DOMINANT POSITION) TO THE AIR TRANSPORT SECTOR IS BEING PREPARED. CONSULTATIONS WITH NATIONAL EXPERTS IS EXPECTED TO BEGIN IN FEBRUARY 1978. DISCUSSIONS ARE CONTINUING WITHIN THE COMMISSION ON THE ACTUAL WORDING OF THE FORMAL PROPOSAL WHICH IS SCHEDULED TO BE PRESENTED TO THE COUNCIL BY JUNE 1978.

E. COOPERATION AMONG AIRLINES.

THE COMMISSION IS STUDYING WAYS IN WHICH TO ENCOURAGE AND DEVELOP COOPERATIVE ACTIVITIES AMONG AIRLINES, SUCH AS EXCHANGES OF AIRPLANES AND EQUIPMENT AND COMMON USE OF FLIGHT SIMULATORS AND FLIGHT MANUALS.

F. HARMONIZATION OF TECHNICAL STANDARDS FOR AIRPLANES AND
- STANDARDS OF SECURITY.

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THE COMMISSION WANTS TO INCLUDE THE AERONAUTICS SECTOR IN THE EC PROGRAM TO ELIMINATE BARRIERS TO TRADE. THE COUNCIL HAS NOT DECIDED ON THIS ISSUE. THE INSTITUTE FOR AIR TRANSPORT IS PREPARING A STUDY FOR THE COMMISSION EVALUATING THE EFFECTS OF ELIMINATING BARRIERS ON THE INTERCHANGE OF AIRPLANES AND EQUIPMENT IN THE EC.

G. COMMON STANDARDS AGAINST NOISE AND POLLUTION.

THE COUNCIL HAS REVIEWED THE COMMISSION'S PROPOSAL ON THE LIMITATION OF NOISE EMISSIONS FOR SUB-SONIC AIRCRAFT AND HAS ASKED THE COMMITTEE OF PERMANENT REPRESENTATIVES (COREPER) TO STUDY FURTHER THIS MATTER. THE PROPOSAL ADOPTS THE STANDARDS OF THE INTERNATIONAL CONVENTION ON CIVIL AVIATION (THE LATEST VERSION OF ANNEX 16) AND ADDS A "COMMUNITY CERTIFICATE" WHEREBY THE MEMBER STATE WHICH HAS REGISTERED THE AIRPLANE RECOGNIZES THAT IT MEETS THE REQUIREMENTS OF THE DIRECTIVE. JOINT RECOGNITION OF THESE CERTIFICATES WOULD BE INTRODUCED.

H. INQUIRIES INTO ACCIDENTS.

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NO PARTICULAR INITIATIVE HAS BEEN TAKEN AT THE EUROPEAN LEVEL. INTERNATIONAL PROVISIONS DISTRIBUTE RESPONSIBILITIES AMONG THE DIFFERENT STATES CONCERNED IN THE EVENT OF AN ACCIDENT, BUT DO NOT ORGANIZE COOPERATION AMONG THEM.

I. TRAINING OF STAFF AND HARMONIZATION OF QUALIFICATIONS.

THE COMMISSION IS IN FAVOR OF A SPECIFIC EC ACTION FOR THE RECIPROCAL RECOGNITION OF QUALIFICATIONS AND TRAINING WHICH WOULD FACILITATE COOPERATION AMONG AIRLINES, E.G., EXCHANGES OF CREWS.

J. WORKING CONDITIONS.

THE COMMISSION PLANS TO CARRY OUT A COMPARATIVE STUDY OF HOURS OF WORK, REST TIME, AND SALARIES IN THE AVIATION SECTOR.

K. OPERATING RIGHTS.

THE MEMBER STATES DO NOT APPEAR READY TO DISCUSS THEIR COMPETENCIES IN THE GRANTING OF OPERATING RIGHTS OR IN THE CONCLUSION OF AGREEMENTS ON CONVENTIONS WITH OTHER COUNTRIES. HOWEVER, THE COUNCIL HAD AGREED THAT ON CERTAIN ROUTES (TRANS-ATLANTIC ROUTES IN PARTICULAR) THERE WOULD BE COMPETITION OF SUCH A NATURE THAT ONLY COORDINATED ACTION ON THE PART OF EUROPEAN STATES COULD HELP THE AIRLINES AND THEIR GOVERNMENTS TO MAKE THEIR VOICES HEARD.

L. ANCILLARY SERVICES.

AT THE COMMUNITY LEVEL THERE IS A NEED TO SIMPLIFY FURTHER PROCEDURES SO AS TO FACILITATE TRAFFIC, CUSTOMS CLEARANCE

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FOR GOODS, CONTROL, ETC., WHILE AT THE SAME TIME REINFORCING AIR TRANSPORT SECURITY. AN AD HOC INTER-GOVERNMENTAL GROUP OF THE EC-9 IS CARRYING OUT WORK DESIGNED TO COMBAT AIR PIRACY.

2. COMMENT: COMMISSIONER RICHARD BURKE, WHO IS RESPONSIBLE

FOR EC TRANSPORT, MAY DISCUSS AND ELABORATE ON SOME OF
THESE ISSUES DURING HIS FORTHCOMING VISIT TO WASHINGTON
(JANUARY 30-31). HINTON

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